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## **Ironic Payoff** **Foreign-Bribery Trials** **May Show U.S. Knew** **Of Some Payments**

### **If So, Washington May Have Problems in Prosecuting The Executives Involved**

### **Were Firms Spy Havens?**

By DAVID IGNATIUS

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—More than three years after American companies first disclosed that they had been paying bribes abroad, Justice Department prosecutors are confronting some awkward questions:

Did U.S. government officials know about some payoffs at the time, in part because of covert intelligence links to some major corporations? And did government officials in some instances tacitly condone bribery because the payments seemed to serve American policy interests abroad?

A top Justice Department official concedes that if the answer to either question is yes, the government may have difficulty bringing criminal charges against executives who approved the payoffs.

The prosecutorial problem has emerged as part of a high-level review by the Justice Department of several major payoff investigations involving corporate executives. The department is starting with its criminal investigation of Lockheed Corp. and the company's former president, Carl Kotchian.

#### **Lockheed Official**

In the past three years, Lockheed has admitted to the Securities and Exchange Commission that since 1970 it had paid \$30 million to \$38 million in improper foreign payments to influence aircraft sales in 15 foreign countries. In their review of the case, Justice Department officials are trying to decide whether to recommend that a grand jury indict Mr. Kotchian on charges connected with some of the payoffs.

If the prosecution of Mr. Kotchian goes forward, the case could shed new light on the government's sensitive, often-tangled relationships with major U.S. corporations overseas. In particular, it could document the way some American companies have provided cover for U.S. intelligence agents abroad.

Mitchell Rogovin, the Washington attorney who represents Mr. Kotchian, says has told the Justice Department that criminal charges are filed against his client he will "demonstrate at trial the reasonableness of our client's belief that the government knew foreign payoffs were being made."

Mr. Rogovin contends he can show to officials of the State Department, the Defense Department and the Central Intelligence Agency knew during the early 1970s that corporate bribery was widespread abroad and had knowledge of some specific payoffs made by Lockheed.

#### **Posing as Employees**

Mr. Rogovin won't say so, but it's understood that one reason the former Lockheed executive is convinced the CIA knew about few of the company's foreign payoffs is that, at the time, some "deep-cover" CIA agents were posing as Lockheed employees abroad. Lockheed declines to comment on this matter or any other aspect of the payoffs case.

Intelligence sources contend that a number of other large American companies have, at one time or another, provided similar cover for CIA agents abroad.

The sources say that Moore McCormack Resources Inc.'s steamship lines unit provided a CIA man in Buenos Aires with a cover job as a freight supervisor during the mid-1960s; Exxon Corp.'s Creole Petroleum Corp. unit (since phased out) employed during the mid-1960s an American security man in Caracas, Venezuela, who was also on the CIA payroll; and Control Data Corp. provided cover for an agent in Southeast Asia during the late 1960s and early 1970s.

In most cases, according to sources, a few high-level executives in companies providing such cover have known about the arrangement. Spokesmen for Moore McCormack and Control Data say that they can't confirm or deny reports about their companies' alleged past relationships with the CIA, but that current executives haven't any knowledge of the matter. An Exxon spokesman says, "Exxon's current management isn't aware of any Exxon employee, past or present, on the payroll of the CIA."

#### **Legal Obstacle**

Philip Heymann, the head of the Justice Department's Criminal Division, won't comment on Lockheed or any other specific case under investigation. But he says that if many high-level government officials knew about any company's foreign payoffs, it could be an obstacle to bringing charges.

"If there was extensive acquiescence (to foreign payoffs) by federal officials, it could be a very troublesome objection to our prosecution," Mr. Heymann says. If it could be shown, further, that the government "actually encouraged the wrongdoing," he adds, prosecution might be impossible. But he doubts that widespread government acquiescence can be demonstrated.

CIA 4.01 Moore McCormack  
Resources Inc.CIA 4.01 Exxon Corp. Creole  
Petroleum Corp.

CIA 4.01 Control Data Corp.

CIA 3.03 Businessman

CIA 4.01 Chase Manhattan Bank

CIA 4.01 Ashland Oil Co.

(orig under IGNATIUS)

nies and the CIA may arise in a number of payoffs cases, and we'll have to treat that problem on a case-by-case basis." But he declines to discuss any specific investigations.

It isn't clear how the Justice Department will resolve its prosecutorial problems. But conversations with some former intelligence officials suggest that for years many in the CIA and perhaps other agencies have known, at least in general terms, about corporate payoffs.

One former CIA official, for example, says payoffs were a "routine" subject of discussion when agency officials met with American businessmen in Southeast Asia. His fellow intelligence officials, probing for possible contacts or weak links in foreign governments, were always curious about which local-government officials might be "on the take" from U.S. companies, he recalls.

But the simple fact that American companies might be paying bribes didn't worry the agency, this former CIA man continues. In fact, under the agency's "management by objectives" philosophy, such mundane matters usually weren't even mentioned in intelligence reports. "You didn't want to waste your superior's time with business peccadilloes," this ex-intelligence official says.

Another former CIA man agrees that it was widely assumed in the agency that "in most foreign countries, it's impossible to do business without bribes." In Latin America, he recalls, "a number of U.S. businesses had what they called 'liaison' offices" set up "to keep things running smoothly" with the local government. The practice was so common that CIA officials rarely bothered to find out "how much money might have changed hands," he says.

The CIA's placement of agents abroad disguised as corporate executives of U.S. companies also may have given the agency an inside view of corporate payoffs.